



Finding a solution to the problem of statelessness

Introduction

In the past years, the United Nations were paying more and more attention to cases of statelessness in the world. Fortunately, it can be declared that positive development have been noticed in many countries and hundreds of thousands stateless persons were granted citizenship. This means that they can finally enjoy the rights which states attribute to their nationals. Despite this improvement, at the end of 2011, the UN High Commissioner for Refugees estimated that the number of stateless persons worldwide may be as high as 12 million.

According to the 1954 Convention relating to the Status of Stateless Persons, the term "stateless" designates a person who is not considered as a national by any state. Therefore no legal bond exists between the person and any state, which means that the usual rights (such as the right to vote) and obligations are not founded. This is also called "de jure statelessness." However, it also occurs that people become "de facto stateless." This happens when a person is outside their country of nationality and they are denied protection of their country. Usually, it is when the country refuses to allow the person to return, despite formally recognizing him as a national. As a result, some de facto stateless people also fall under the definition of refugees.

Nationality is closely tied to citizenship. Although, there are some differences in meaning of the terms, they are often understood as interchangeable. It is rather the term "citizenship", which refers to the legal tie between a person and a state, but the expressions will be used as synonyms in this report.

Difficulties that stateless people face

In history, many countries regarded citizenship as a privilege and did not attribute it to all of their inhabitants. Others were deprived of the rights which we now regard as basic human and civic rights. One of the saddest examples can be how deprivation of citizenship was used for discrimination of Jews in the Nazi Germany. Along with changes in states' borders after the WWII, which caused chaos in nationality determination, this led to the creation of Article 15 in the Universal Declaration of Human Rights in 1948. It says that everyone has the

right to a nationality. Nevertheless, the international community still has to work to enforce this human right.

Stateless persons struggle with various problems because of their status. While some countries took further measures to protect this vulnerable group, others overlook it or even deliberately discriminate against these people. Among the most usual difficulties count obstacles arising when a stateless person, who typically lack identity documentation, wants to register marriage, birth or death. Also they cannot participate in elections without citizenship. International travelling is practically impossible without documents, so stateless people are often regarded as illegal migrants and may end in a prolonged detention.

Without birth registration and other documents, children of stateless parents cannot attend schools in some countries. Moreover, stateless people can be deprived of access to health care and their property rights are not legally protected. They can be forced to work illegally, because they cannot obtain work permits. This makes them particularly vulnerable to abuse and exploitation and even puts them in danger of human trafficking. When large populations in a region are left without nationality, the consequence might be tensions leading to unrest and serious conflicts.

Causes of statelessness

There are several ways of how citizenship is usually acquired. At birth, two principles can be applied – jus sanguinis or jus soli. This means that a child obtains a states' nationality either if one of the parents is the country's national, or when a child is born in territory of the state. It is also possible to get citizenship later, this procedure is called naturalization. People can become citizens through marriage with the country's national or they can usually apply for citizenship on the basis of long-term stay on the territory. These are the most common practices, however, policies concerning citizenship differ from state to state – which is one of the causes of statelessness.

Firstly, children can be born stateless due to several occurrences. It can happen when the person is born in a state which grants citizenship only to descendants of its citizens, while the parents are nationals of a state applying jus soli. In some, mostly less economically developed, countries, not all parents can afford to pay registration and birth certificates. Also, hospitals in some countries struggle with registering birth properly. Many children are born in localities too distant from places where birth certificates are issued and it is therefore too difficult for the parents to get them. Being undocumented does not necessarily mean being

stateless, however, it worsens the danger. Unfortunately, when a child is born to stateless parents in a country which gives citizenship through descent, he can lack nationality as well. Foundlings are prone to statelessness as well.

Attention must be paid to discrimination against women in the context of citizenship. Mainly, in Muslim countries, laws are restricting the rights of women to pass on their nationality to their children. Therefore, if the father is stateless or a refugee in some cases (mostly Palestinians are concerned), the child is born stateless. Furthermore, it is often impossible to become a citizen through marriage with a female national of the country. In extreme, some countries deprive women of their citizenship if they marry a different state's national.

Not granting citizenship can represent targeted discrimination against minorities as well, which leads to large populations of stateless people. Examples of such grave cases will be discussed below. Often, it is the transfer of territory or division of state, which changes the status of citizens of the former state (or states). When this happens, inhabitants are usually given certain time to arrange their documents, if they fail to do so, they can become stateless. Whole ethnic groups were left stateless due to divisions of states, when none of the newly-formed countries accepted the group as its citizens (and claimed they belong to the other nation).

Finally, when people were applying for citizenship in a country where they immigrated, they were forced by the law to renounce their original nationality first. Recently, other countries gave up this policy, but the practice is still in use in many states and thus creates the risk of statelessness. In some cases, people are deprived of their nationality as a punishment for serious crimes, such as treason.

Rights of stateless people

Despite the lack of citizenship, basic human rights are supposed to be attributed to stateless people as well. However, this principle is upheld to different extent by various states. While in some countries they have access to education and medical care just as citizens, elsewhere, they can be excluded from such services and are left without any legal protection. The 1954 Convention relating to the Status of Stateless Persons seeks to set basic rights of people without nationality which signatory states should uphold.

Another important international treaty was adopted in 1961 under the name Convention on the Reduction of Statelessness. This document promotes a series of measures that signatory states should adopt in order to prevent and eradicate

statelessness. Its goal is not to create one universal nationality legislation, because it respects sovereignty of states and different conditions in every country. However, it offers some safeguards that countries should implement. For example that a state should grant nationality to a child which has ties to the state through descent or birth in the territory, *if* the child would be otherwise left stateless. (That means that a country can normally grant citizenship e.g. only through descent, but should make an exception in order to prevent statelessness.)

Statelessness in the world

This part of the report aims to present some examples of statelessness with different causes. One of the largest stateless populations is the Rohingya, a Muslim minority in Burma. It is estimated that over 700,000 of them is denied citizenship in Burma and approximately one million of them lives as refugees or illegal migrants in Bangladesh, Thailand and other countries, where they are mostly ineligible for citizenship as well. Burmese authorities declared the minority “non-national” and insist they are Bangladeshi, while Bangladesh claims they are Burmese. Also about one million tribe people in Thailand lack nationality because of too short filling deadlines and due to living in rural areas where it is too difficult to obtain birth documentation.

The Urdu speaking minority in Bangladesh was a sad example of victims of state’s division. Members of this Muslim population used to be Pakistani citizens until 1971. Then the fight for independent Bangladesh was initiated by Bengali majority in East Pakistan, where the Urdu speakers were living as well. This group, counting as many as 500,000 people, did not support the creation of the new state. Therefore Bangladesh refused to grant them citizenship as well as Pakistan, which argued that their mass influx could destabilize the country. Finally, in 2008, most members of this community gained citizenship in Bangladesh.

In Africa, we can find examples of deliberate discrimination against religious or ethnic minorities, which are regarded as “non-indigenous” to the country. There are up to 3.5 million people in Cote d’Ivoire without identity documents. In North Africa and Middle East, it is common that women have limited nationality rights. As already described, they cannot pass nationality to their children or husbands. This is reality for example in Bahrain, Iraq, Jordan or Algeria. Particularly three major groups are affected by statelessness and discrimination – Palestinians, Kurds and Bidun, who are not eligible for citizenship in most countries. In case of

Bidun, this is caused by their nomadic way of life.

Statelessness is enabled by the United States, because it is possible to renounce US citizenship without even intending to apply for another one in a different country. It is similar to the practice when states require people applying for citizenship to renounce their original nationality at first. This policy is still implemented for example by Germany. There is an unknown number of stateless Roma in Europe.

What needs to be addressed

Firstly, there is no exact statistics for the number of stateless people in the world. While the UN High Commissioner for Refugees estimated that the number can be as high as 12 million, it was possible only to count about 3,5 million persons without nationality in 64 countries. However, more information is the basis for finding a solution. The most acute problem is the situation of whole populations which are excluded from citizenship as minorities. This intended discrimination tends to lead to unrest and instability in affected regions. Particular attention should be given to occurrences of changes in the territory of a state, because many inhabitants can find themselves stateless due to incautious nationality policy.

Very grave are also the numerous cases of children born stateless because of their parents being immigrants or refugees. In consequence, large groups of persons without nationality arise and pass on the status to their offspring. For example, Palestinian refugees suffer from this policy. This can be also linked to the discrimination against women in limiting their nationality rights. Also, the practice of demanding applicants for citizenship to renounce the previous one is criticized. It is important to realize that statelessness is a serious humanitarian issue which affects millions of people. Its consequences are not predictable, but they are always negative. As the right to a nationality counts among basic human right, it is the responsibility of the United Nations to ensure it.

Further reading

<http://www.statelessness.eu/resources>

<http://www.nationalityforall.org/whatis>

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<http://www.unhcr.org/>

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